

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 62 - SB 1822

February 22, 2009

SUMMARY OF BILL: Requires all state and local government programs that provide certain benefits not mandated by federal law to verify immigration status prior to awarding such benefits. Requires law enforcement officials to check the citizenship status of any individual charged with a felony or DUI and if verification of lawful status cannot be obtained, to forward that information to the United States Department of Homeland Security.

ESTIMATED FISCAL IMPACT:

Increase State Revenue – Not Significant

Increase State Expenditures - \$884,100/One-Time

\$9,514,300/Recurring

\$53,000/Incarceration*

Increase Local Revenue – Not Significant

Increase Local Expenditures – Exceeds \$100,000/Recurring**

Increase Federal Expenditures - \$84,100/Recurring

Other Fiscal Impact - Any decrease in state expenditures as a result of prohibiting the delivery of certain public benefits to illegal immigrants is unquantifiable because it is unknown how many illegal immigrants currently receive such benefits. The process to determine immigrant status will lengthen the application process for many programs within state and local government. This may generate some offsetting costs. Such costs are unquantifiable. The Department of Health indicates that limiting participation in the WIC Program jeopardizes approximately \$127,951,705 in federal funds to the state. The Department of Children's Services indicates that limiting participation in Departmental Programs may jeopardize \$89,326,500 in federal funds to the state.

Assumptions:

- The federal status verification system (SAVE) will charge a \$25 fee per month for system access. Each query of the system will then be subject to a fee of approximately \$0.25.
- There will be an increase in recurring local expenditures exceeding \$85,500 ($\$25 \times 95 \times 12 \times 3 = \$85,500$) for at least three computer links in all 95 counties.
- There will be an increase in recurring state expenditures exceeding \$15,000 ($\$25 \times 50 \times 12 = \$15,000$) for at least 50 computer links to access the SAVE system.
- There are approximately 26,000 arrests for DUI statewide each year.
- A 75 percent local to 25 percent state DUI arrest ratio.
- Approximately 19,500 of the DUI arrests were done by local law enforcement ($26,000 \times 75\% = 19,500$).
- Approximately 6,500 of the DUI arrests were done by state law enforcement ($26,000 \times 25\% = 6,500$).
- The estimated cost to local government for DUI related immigration inquiries is \$4,875 ($19,500 \times \0.25).
- The estimated cost to the state for DUI related arrests is approximately \$1,625 ($6,500 \times \0.25).
- There are approximately 310,426 non-DUI arrests statewide for felony and misdemeanor violations each year. Further breakdown of felony and misdemeanor arrests was not available. Therefore, it is assumed that 150,000 such violations were for felony offenses. Further, it is assumed that 75% ($150,000 \times .75 = 112,500$) of such arrests were made by local law enforcement officers and the remaining 25 percent ($150,000 \times .25 = 37,500$) of arrests were made by state law enforcement officers.
- At a cost of approximately \$0.25 per felony immigration status inquiry the estimated cost to local governments is approximately \$28,125 ($112,500 \times \$0.25 = \$28,125$).
- At a cost of approximately \$0.25 per felony immigration status inquiry the estimated cost to the state is approximately \$9,375.
- The total cost to local governments to conduct immigration inquiries for every DUI and felony arrest is estimated to be \$33,000 ($\$4,875 + \$28,125 = \$33,000$).
- The total cost to the state to conduct immigration inquiries for every DUI and felony arrest is estimated to be \$11,000 ($\$1,625 + \$9,375 = \$11,000$).
- Services provided by the Department of Children's Services are either governed by federal law or are exempt according to the provisions of the bill. As a result there will be no impact to the department.
- No fiscal impact to TennCare because they must conform to federal eligibility requirements under current law.

- Benefits under the Cover Tennessee program are not federally mandated and as a result will be subject to the provisions of the bill.
- The Cover Tennessee program will require two additional positions at a recurring cost of \$156,600 to comply with the verification provisions of the bill.
- DHS contracts with local government, agencies and non-profit organizations to operate several programs. It is estimated that the verification requirements will increase the administrative duties of the agencies. With a one percent increase in administrative costs, DHS will incur an increase in state expenditures of \$469,700.
- In 2007, there were approximately 1,064,936 encounters with persons over 18 in county health departments.
- The Department of Health estimates that each of the 89 rural county health departments will need two Public Health Office Assistants for verification and determination of qualified individuals. Nine Public Health Rep. 2 positions will be needed for the early detection and treatment of increased communicable diseases. Such is estimated to increase recurring state expenditures by \$6,340,600 for salary and benefits (\$5,134,200), travel (\$27,000), printing and duplication (\$20,000), supplies (\$130,900), rentals and insurance (\$766,700) and communication and technology services (\$261,800). There will be a one-time increase in expenditures of \$729,300 for office set-up and supplies.
- The Department of Health also contracts for services with six metro health offices. There will be 16 additional positions to provide verification and determination of qualified individuals which is estimated to increase recurring expenditures by \$432,300.
- The Department of Mental Health and Developmental Disabilities (MHDD) will require 25 new positions to accommodate the increased workload required by immigration status verification. The recurring cost for these positions is estimated to be \$1,254,300 (\$1,003,400 for salary and benefits and \$250,900 for operational expenses).
- MHDD will incur a \$342,600 $[(5+701+436) \times 12 \text{ months} \times \$25 = \$342,600]$ annual expenditure for SAVE access at the five Regional Mental Health Institutes statewide and 701 community mental health provider sites and the 436 community alcohol and drug sites.
- MHDD will incur annual expenditures of approximately \$16,625 $(66,500 \times \$0.25)$ for an average of approximately 66,500 SAVE inquiries.
- The Secretary of State will require three additional positions at a recurring cost of \$275,400 for salary, benefits and recurring travel expenses. There will be a one-time increase in expenditures of \$15,800 for a copier, supplies, telephones, and computers.
- There will be a one-time increase in state expenditures of \$139,000 for the Department of Revenue to make required software modifications. The Department also anticipates some recurring increase in state

revenue associated with the F & E tax penalties found in the bill. The magnitude of such increase cannot be quantified.

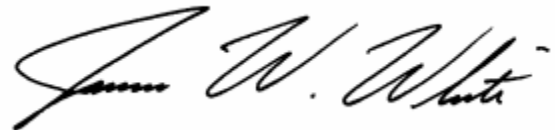
- The Department of Children's Services (DCS) will need four additional positions to comply with the verification provisions of the bill. The total recurring cost for the positions is \$231,300. These positions would be funded through both state and federal funds.
- Of the \$231,300, seven percent (\$16,191) will be Title IV-E Federal funds; 45 percent (\$104,085) will be through TennCare; and \$111,024 in state funds.
- Of the TennCare funds, \$36,172 are state funds at a 34.752 percent match rate and \$67,913 are federal funds at a 65.248 percent match rate.
- The total increase in expenditures for DCS is estimated at \$147,196 in state funds and \$84,104 in federal funds.
- Section nine of the bill includes the felony charge of aggravated perjury for any person who executes a fraudulent affidavit in connection with immigration documentation.
- According to the Department of Correction (DOC), there has been an average of nine admissions for aggravated perjury in each of the past 10 years. DOC estimates that one additional offender per year would be convicted as a result of this bill. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one additional offender.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. No significant incarceration cost increase will occur due to population growth in this period.
- According to the DOC, the average post-conviction time served for a Class D felony is 2.43 years. According to DOC, the average operating cost per offender per day for calendar year 2009 is \$59.80. The cost per offender at 2.43 years is \$52,995.95 (\$59.80 x 886.22 days).
- Many benefit programs administered at the local level are subject to federal immigration status requirements. Many of the ones that are not subject to federal requirements are administered in conjunction with the state therefore much of the cost of this legislation will be borne by the state.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

***Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is written in a cursive, flowing style with a large initial "J" and "W".

James W. White, Executive Director

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